

## REMARKS

In the Office Action, the Examiner objected to the specification under 37 CFR 1.75(d)(1) and MPEP § 608.01(0) because the specification "fails to provide proper antecedent basis for the terms "first substantially vertically disposed plate like member", "second substantially vertically disposed plate like member", "horizontally disposed plate like member" as claimed in claim 1, "a first plate like member" claimed in claim 2, "a second plate like member" claimed in claim 3, and "a guide means" claimed in claim 7.

The Examiner further stated that "It is unclear to the Examiner as to which elements Applicant intends to refer to" and required clarification.

The antecedent basis for the terms "first substantially vertically disposed plate like member", "second substantially vertically disposed plate like member", and "horizontally disposed plate like member" in claim 1 can be found in FIGS. 1-3 and, particularly in FIG. 3.

The "first substantially vertically disposed plate like member" is identified by reference character 66 and the "second substantially vertically disposed plate like member" is identified by reference character 54. It is well known in the art of inflatable airbags that the air spring 52 is attached to and disposed intermediate to planar surfaces 54 and 56. It is

also can be seen in FIG. 1 and is generally known in the art of the truck mounted TMX brake assembly that the air spring actuator 50 can operate to exert substantially horizontal forces at X and engage brake shoes 12 with the wheel set of the railway car only when such surfaces 52 and 54 are disposed in a substantially vertical plane.

For the sake of clarity, the specification has been amended to recite "first substantially vertical surface 54" and "first substantially vertical surface 66".

The "horizontally disposed plate like member" is identified by the reference character 64 and is best shown in FIGS 2 and 3.

The "first plate like member" in claim 2 is identified by the reference character 76 and is best shown in FIG. 3.

Additional antecedent basis can be found on page 14, lines 13-14, wherein it is recited that "64 and 76 substantially horizontal to first surface portion 66".

The "second plate like member" in claim 3 is now identified by the reference character 77, best shown in the amended FIG. 1 attached herewith.

The "guide means" in original claim 7 (now claim 6) is identified by reference character 84 and is best shown in FIGS. 1-3. Additional antecedent basis can be found on page 14, lines 15-21 of the specification.

Therefore, the Examiner is respectfully requested to withdraw his objection to the specification under 37 CFR 1.75(d)(1) and MPEP § 608.01(0).

Next, the Examiner objected to the claims stating that the numbering of claims is not in accordance with 37 CFR 1.126 since "Claim 5 has been skipped" and required claim renumbering.

Claims 6-19 have been renumbered.

Additionally, the Examiner objected to claims 1-4 and original claims 6-19 because of the following informalities:

- "- First claimed in line 8 from the bottom of claim 1 "planer" should be changed to -planar-(also see claims 3,7,8, and 10)
- in the last line of claim 4 "said first substantially vertically disposed member" should be changed to -said first substantially vertically disposed plate like member-- to maintain consistent terminology;
- in claim 8 line 3 "outer" should be changed to --outter-;
- in the last line of claim 8 a period should be included at the end. The remaining claims are objected to due to their dependency from one of claims 1, 7, and 10".

The above stated informalities have been corrected in the amended claim set, attached herewith. Therefore, the Examiner is respectfully requested to withdraw his objection to claims 1-4 and original claims 6-19.

Finally, the Examiner rejected claims 2, 3, and original claims 8 and 16 (now claims 7 and 15) under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner stated that with regards to claims 2 and 3 *"The phrase "foreign material" first claimed in lines 3-4 from the bottom of claim 2 is confusing. It is unclear to the Examiner whether the foreign material in claims 2 and 3 is intended to be the same or different from that claimed in claim 1"*.

The foreign material in claims 2 and 3 is the same as the foreign material in claim 1. The protection to the air bag actuator 50 from foreign material is provided by the "substantially horizontally disposed plate like member" in claim 1 best identified by reference character 64 in FIG. 3, the "first plate like member" in claim 2 best identified by reference character 76 in FIG. 3, and the "second plate like member" in claim 3 best identified by reference character 77 in the amended FIG. 1 attached herewith which now specifically shows such second like plate member 77 disposed oppositely the element 76.

With regards to original claims 8 and 16, the Examiner stated that *"The phrase "pair of guide means" in line 2 of claim*

8 and the phrase "a means for guiding" in lines 2-3 of claim 16 are indefinite. It is unclear to the Examiner whether the pair of guide means and the means for guiding intend to include or be separate from the guide means claimed in claims 7 and 10".

With regards to the original claim 8 (now claim 7), the term "pair of guide means" refers to a first edge portion 84 and a second edge portion 94 of the member 80, best shown in FIG. 3. Additional antecedent basis can be found on page 14, lines 15-21.

Original claim 16 has been canceled.

Therefore, the Examiner is respectfully requested to withdraw her rejection of claims 2, 3, and original claims 8 and 16 (now claims 7 and 15) under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Turning to a more substantive matters, the Examiner rejected claims 1-4, 7-14, and 19 under 35 U.S.C. 102(e) as being anticipated by US Patent 6116385 to Ring.

In support of this rejection, the Examiner stated, "Re: claim 1. Ring shows in figures 1 and 3 an actuating member for a railway vehicle brake assembly, such railway vehicle brake assembly having an air bag actuator 58 incorporated therein,

said actuating member comprising: a first substantially vertically disposed plate like member or right side of element 50, said first substantially vertically disposed plate like having a first substantially planer surface shown in the area of the lead line of number 51 engageable via intervening elements with a first surface shown in the area of the lead line of number 88 of a second substantially vertically disposed plate like member shown in the area of element number 83 attached to such air bag actuator, a substantially horizontally disposed plate like member shown in the area of the lead line of number 84 connected to the first substantially vertically disposed plate like member adjacent a bottom edge thereof and extending substantially perpendicular to the first planar surface of the first vertically disposed plate member for shielding at least a first portion of the air bag actuator from foreign material as shown, and a means shown at the left end of element 60 connected to a radially opposed second surface of the first vertically disposed plate like member via intervening elements for securing the actuating member to a control linkage (or element connected to the left end of element 60 shown in figure 1) of the assembly.

Re: claim 2. Ring shows in figure 3 the limitation wherein the actuating member further includes a first plate member 82 connected to an upper surface of the substantially horizontally

disposed member and to the first planar surface of the first substantially vertically disposed plate like member adjacent a first side edge thereof and extending substantially perpendicular thereto for shielding at least a second portion of the air bag actuator from foreign material and for providing added strength.

Re: claim 3. Ring shows in figure 3 the limitation wherein the actuating member further includes a second plate like member 31 connected to the upper surface of the substantially horizontally disposed member via intervening elements and to the first planer surface of the first substantially vertically disposed plate like member adjacent a second side edge thereof and extending substantially perpendicular thereto for shielding at least a third portion of the air bag actuator from foreign material and for providing added strength.

Re: claims 4 and 9. Ring shows in figure 3 the limitation wherein the first vertically disposed plate member includes at least one mounting aperture 64 formed therethrough. Or in an alternate interpretation the first vertically disposed member can be element 83 and the mounting aperture can be element 86.

Re: claims 7, 10, 11, and 16. Ring shows the invention as set forth in the rejection of claim 1 above and shows a guide means 72 connected to an disposed closely adjacent a first outer edge of (via intervening elements in the position shown in

figure 3) and (portions of which being) substantially perpendicular to the planar surface portion of the first vertically disposed plate member for guiding and alignment and a securing means 31 connected to the first substantially vertically disposed plate member for enabling attachment to a rigid structure show attached to element 31 in figure 1.

Re: claim 8. Ring shows in figure 3 a pair of guide means 72,74, a second one of the pair of guide means 74 disposed closely adjacent a second outer edge of and substantially perpendicular to the planar surface portion of the first vertically disposed plate member.

Re: claims 12, 13, and 19. Ring shows in figure 3 a means (or thin piece attached to the right of element 74) for limiting reciprocal motion of the air spring actuator.

Re: claim 14. Ring shows in figure 3 an air inlet 64 in communication with the at least one air bag spring 59".

With regards to independent claim 1, Ring teaches a cylindrical casing (50) having an inner (cylindrical) surface (76) which, as best shown in FIG. 3 and 4, is attached to the air bag (58).

Such limitation is not taught by first substantially vertically disposed plate like member (60) of the present invention.



Therefore, the present invention of claim 1 is patentably distinguished from Ring prior art reference.

With regards to original independent claim 7 (now claim 6), Ring teaches a cylindrical type second end (83) attached or connected to the cylindrical casing (50), but which does not directly engage the air bag (58).

The second substantially vertically disposed plate like member (80) of the present invention abuts the surface (56) of the air bag (50) as best shown in Figures 1 and 2.

Therefore, the present invention of the amended claim 6 is patentably distinguished from Ring prior art reference.

With regards to original independent claim 10 (now claim 9), the present invention does not employ a "hollow piston assembly mounted for reciprocal movement within said cylindrical casing" in paragraph (b) of claims 1, 12 and 16 of Ring.

Therefore, the present invention of the amended claim 9 is patentably distinguished from the Ring prior art reference.

Accordingly, the Examiner is respectfully requested to withdraw her rejection of independent claims 1, 7, and 10 under 35 U.S.C. 102(b) as being anticipated by US Patent 6116385 to Ring.

Next, the Examiner rejected original claim 6 (now claim 5) under 35 U.S.C. 103(a) as being unpatentable over Ring in view of US Patent 6267043 to Plantan et al.

In support of her rejection, the Examiner stated that "Ring shows in figure 3 the limitation wherein the means connected to the radially opposed second surface of the first vertically disposed plate member for securing the actuating member to the control linkage of the railway vehicle brake assembly includes at least one plate member or bottom plate of the leftmost side of element 60 having an aperture as shown formed therethrough.

Ring does not include the limitation of a pin member disposed in the aperture for securing the at least one plate member to such control linkage.

Plantan et al. teach in figures 2 and 4 the use of a brake actuator having a plate member 84 having an aperture 86 and a pin member 88 disposed in the aperture.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the aperture of the plate member of Ring to have included a pin member therethrough, as taught by Plantan et al., in order to provide a means of reciprocating element 60 within elements 83 and 84.

Original claim 6 (now claim 5) is dependent from claim 1 and will be allowed since it is believed that claim 1 is in a condition for allowance.

Therefore, the Examiner is respectfully requested to withdraw her rejection of the original claim 6 under 35 U.S.C.

103(a) as being unpatentable over Ring in view of US Patent 6267043 to Plantan et al.

Finally, the Examiner rejected original claims 15, 17, and 18 under 35 U.S.C. 103(a) as being unpatentable over Ring in view of US Patent 4846785 to Cassou et al.

In support of her rejection, the Examiner stated that "Ring describes the invention substantially as set forth above, but does not include the limitation of a visual travel indicator.

Cassou et al. teach in col. 4 lines 2-5 the limitation of an actuator including a visual travel indicator or markings 20.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the portion of element 60 extending outside element 83 to have included a visual travel indicator, as taught by Cassou et al., in order to provide a means of monitoring linear travel of element 60 to monitor the amount of brake actuation for brake control purposes".

The Cassou et al teaches an instrument for artificial insemination, which is nonanalogous art. The person skilled in the art of railroad brakes will not look into the art of artificial insemination for solving a brake related problem.

Therefore, the Examiner is respectfully requested to withdraw her rejection of the original claims 15, 17, and 18


under 35 U.S.C. 103(a) as being unpatentable over Ring in view of US Patent 4846785 to Cassou et al.

### **Conclusion**

In view of the above amendments to the claims, drawings and the remarks associated therewith, the Applicant believes that independent claim 1 and original independent claims 7 and 10 (now claims 6 and 9) are in a condition for allowance and such allowance by the Examiner is respectfully requested. Since it is believed that independent claim 1 and original independent claims 7 and 10 (now claims 6 and 9) are in condition for allowance, their dependent claims further providing limitations are also in a condition for allowance.

In the event the Examiner has further difficulties with the election, he is invited to contact the undersigned agent by telephone at 412-380-0725 to resolve any remaining questions or issues by interview and/or by Examiner's amendment as to any matter that will expedite the completion of the prosecution of the application.

Respectfully submitted,

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